

Item LEG06-01 Response Form

Title: Civil Discovery: Objections and Responses (Code Civ. Proc., §§ 2030.240, 2031.210, 2031.240, and 2031.280)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

☐ **Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 23, 2006

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action.*

Invitations to Comment LEG06-01

Title	Civil Discovery: Objections and Responses (Code Civ. Proc., §§ 2030.240, 2031.210, 2031.240, and 2031.280)
Summary	The Civil Discovery Act would be amended (1) to require objections based on a claim of privilege or undue burden to be stated with sufficient particularity to permit an evaluation of the claim, and (2) to specify the date for production of documents.
Source	Civil and Small Claims Advisory Committee Hon. Elihu M. Berle, Chair
Staff	Patrick O'Donnell, Committee Counsel, 415-865-7665 patrick.o'donnell@jud.ca.gov
Discussion	<p>The proposed legislation would amend several statutes.</p> <p>First, two discovery statutes would be amended to provide that, if an objection is based on a claim of privilege, the privilege shall be stated in sufficient detail to permit evaluation of the privilege. If the objection is based on a claim of undue burden, the nature of the burden must be stated with sufficient particularity to permit an evaluation of the claim. (See amended Code Civ. Proc., §§ 2030.240(b) and 2031.240(b)(2).)</p> <p>Second, the statutes on demands for production of documents are currently silent on the time for production. These would be amended to expressly provide that the date for production is the date specified in the demand for production under section 2031.030(c)(2). (See amended Code Civ. Proc., §§ 2031.210(a)(1) and 2031.280(b).) These statutes would also be amended to state that, if a party objects to the date for production, the objection must state the factual basis for the objection. (See amended Code Civ. Proc., §§ 2031.210(c) and 2031.280(b).)</p> <p>These amendments are intended to improve the manner in which objections are made to discovery requests.</p>
	Attachment

Proposal

Code of Civil Procedure sections 2030.240, 2031.210, 2031.240, and 2031.280 would be amended, effective January 1, 2008, to read:

1 **§ 2030.240.**

- 2
- 3 **(a)** If only a part of an interrogatory is objectionable, the remainder of the
- 4 interrogatory shall be answered.
- 5
- 6 **(b)** If an objection is made to an interrogatory or to a part of an interrogatory, the
- 7 specific ground for the objection shall be set forth clearly in the response. If
- 8 an objection is based on a claim of privilege, the particular privilege invoked
- 9 shall be clearly stated and in sufficient detail to permit an evaluation of the
- 10 privilege. If an objection is based on a claim that the information sought is
- 11 protected work product under Chapter 4 (commencing with Section
- 12 2018.010), that claim shall be expressly asserted. If the objection is based on
- 13 a claim of undue burden, the nature of the burden shall be stated with
- 14 sufficient particularity to permit an evaluation of the claim.
- 15

16 **§ 2031.210.**

- 17
- 18 **(a)** The party to whom an inspection demand has been directed shall respond
- 19 separately to each item or category of item by any of the following:
- 20
- 21 (1) A statement that the party will comply with the particular demand for
- 22 inspection by the date set for production pursuant to Section
- 23 2031.030(c)(2) and any related activities.
- 24
- 25 (2) A representation that the party lacks the ability to comply with the
- 26 demand for inspection of a particular item or category of item.
- 27
- 28 (3) An objection to the particular demand.
- 29
- 30 **(b)** In the first paragraph of the response immediately below the title of the case,
- 31 there shall appear the identity of the responding party, the set number, and
- 32 the identity of the demanding party.
- 33
- 34 **(c)** Each statement of compliance, each representation, and each objection in the
- 35 response shall bear the same number and be in the same sequence as the
- 36 corresponding item or category in the demand, but the text of that item or
- 37 category need not be repeated. Each objection to the date set for production
- 38 shall state the factual basis for the objection.

1
2 **§ 2031.240.**
3

4 (a) If only part of an item or category of item in an inspection demand is
5 objectionable, the response shall contain a statement of compliance, or a
6 representation of inability to comply with respect to the remainder of that
7 item or category.
8

9 (b) If the responding party objects to the demand for inspection of an item or
10 category of item, the response shall do both of the following:
11

12 (1) Identify with particularity any document, tangible thing, or land falling
13 within any category of item in the demand to which an objection is
14 being made.
15

16 (2) Set forth clearly the extent of, and the specific ground for, the objection.
17 If an objection is based on a claim of privilege, the particular privilege
18 invoked shall be clearly stated and in sufficient detail to permit an
19 evaluation of the privilege. If an objection is based on a claim that the
20 information sought is protected work product under Chapter 4
21 (commencing with Section 2018.010), that claim shall be expressly
22 asserted. If the objection is based on a claim of undue burden, the
23 nature of the burden shall be stated with sufficient particularity to
24 permit an evaluation of the claim.
25

26 **§ 2031.280.**
27

28 (a) Any documents produced in response to an inspection demand shall either be
29 produced as they are kept in the usual course of business, or be organized and
30 labeled to correspond with the categories in the demand.
31

32 **(b)** The documents shall be produced on the date specified in the inspection
33 demand pursuant to section 2031.030(c)(2), unless an objection has been
34 made as to the date. Each objection to the date set for production must
35 specify the factual basis for the objection.
36

37 ~~(b)~~**(c)** If necessary, the responding party at the reasonable expense of the
38 demanding party shall, through detection devices, translate any date
39 compilations included in the demand into reasonably usable form.